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 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION

12 QIN CHEN, )  
 13 Petitioner, ) No. C 07-2188 JSW  
 14 v. )  
 15 MICHAEL CHERTOFF, Secretary of the )  
 Department of Homeland Security; )  
 16 EMILIO T. GONZALEZ, Director of the )  
 U.S. Citizenship and Immigration Services; )  
 17 CHRISTINA POULOS, Acting Director of )  
 USCIS, California Service Center, and )  
 18 ROBERT S. MUELLER, Director )  
 of Federal Bureau of Investigations; )  
 19 Respondents. )  
 20 \_\_\_\_\_ )

21 1. Jurisdiction and Service: All parties have been served. Plaintiff brought this complaint  
 under the mandamus statute and under the Administrative Procedure Act. Respondents will argue  
 22 that the Court lacks jurisdiction to compel Respondents to act in this case.

23 2. Facts: On May 3, 2005, Petitioner filed a Form I-485 application for adjustment of status to  
 Legal Permanent Resident with USCIS, based on her employment. On April 20, 2007, Petitioner  
 24 filed this Complaint for a Writ in the Nature of Mandamus, alleging that Defendants are unlawfully  
 withholding or unreasonably delaying action on her application, and asking the Court to compel  
 25 USCIS to adjudicate her application for adjustment of status. Petitioner's name check is still  
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1 pending with the Federal Bureau of Investigations. Plaintiff alleges that USCIS has failed to  
2 timely renew her Employment Authorization Documents over the past two years.

3       3. Legal Issues: The principal legal issue the parties dispute is whether the Court has  
4 jurisdiction to compel agency action in this case and if so, whether Respondents' delay, as a matter  
5 of law, is arbitrary and not in accordance with the law.

6       4. Motions: The parties intend to file cross-motions for summary judgment and will ask for a  
7 hearing date at the case management conference.

8       5. Amendment of Pleadings: None.

9       6. Evidence Preservation: None.

10      7. Disclosures: The parties agree that this Court's review will be confined to the administrative  
11 record and therefore this proceeding is exempt from the initial disclosure requirements under Fed.  
12 R. Civ. P. 26.

13      8. Discovery: There has been no discovery to date and the parties believe this matter can be  
14 resolved without discovery.

15      9. Class Actions: Not applicable.

16      10. Related Cases: None.

17      11. Relief: Petitioner asks that the Court direct USCIS to adjudicate her adjustment of status  
18 application and asks for an award of reasonable costs.

19      12. Settlement and ADR: Due to the nature of this litigation the parties will ask to be exempt  
20 from the formal ADR process.

21      13. Consent to Magistrate Judge for All Purposes: The parties consent to magistrate judge  
22 jurisdiction.

23      14. Other References: None.

24      15. Narrowing of Issues: None.

25      16. Expedited Schedule: The parties believe this matter can be solved through cross-motions  
26 for summary judgment.

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17. Scheduling: The schedule for cross-motions for summary judgment is as follows:

- Both parties' Motions for Summary Judgment are due on November 1, 2007.
- Both parties' Oppositions are due on November 21, 2007.
- Both parties' Reply Briefs are due on November 30, 2007.

The Motions are deemed submitted on November 30, 2007. The Court will let the parties know if it needs further briefing, or would like to set a date for a hearing.

18. Trial: The parties believe the matter can be resolved through motions.

19. Disclosure of Non-party Interested Entities or Persons: None.

9       20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this  
10 matter: None.

**11** Dated: July 16, 2007  
Respectfully submitted,

SCOTT N. SCHOOLS  
United States Attorney

/s/  
EDWARD OLSEN  
Assistant United States Attorney  
Attorneys for Defendants

Dated: July 16, 2007

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/s/  
QIN CHEN  
*Pro Se*

## CASE MANAGEMENT ORDER

The Joint Case Management Statement and Proposed Order, with additions by the Court for scheduling the parties' cross-motions for summary judgment, are hereby adopted by the Court as the Case Management Order for the case, and the parties are ordered to comply with this Order.

Dated: 8-10-2007

Wayne D. Brazil  
WAYNE D. BRAZIL  
United States Magistrate Judge

Copies: parties (Qin Chen by US Mail), WDB, Stats